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20 CV 10575

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE SWAIN

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JLM COUTURE, INC,

Case No.: _____

Plaintiff,

**[PROPOSED] ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION AND
TEMPORARY RESTRAINING
ORDER**

v.

HAYLEY PAIGE GUTMAN,

Defendant.

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Upon the motion for a temporary restraining order and preliminary injunction supported by the Declaration of Joseph L. Murphy, sworn to on the 14th day of December, 2020, the Declaration of Svetlana Gryazeva, sworn to on the 13th day of December, 2020, the Declaration of Brittany Noe, sworn to on the 11th day of December, 2020, and the declaration of Sarah M. Matz, Esq. sworn to on the 15th day of December, 2020, together with the exhibits annexed thereto, the memorandum of law of Plaintiff JLM Couture, Inc. ("JLM" or "Plaintiff"), and the pleadings herein, and good and sufficient cause appearing therefore, it is hereby:

ORDERED, that the above named defendant, Hayley Paige Gutman ("Gutman") show cause before a motion term of this Court, at Room ____, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on _____, ____, 202__, at _____ o'clock in the _____ noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure as follows:

A. during the pendency of this action, enjoining Defendant, along with her officers,

agents, servants, employees, and attorneys and all other persons who are in active concert or participation with them, from taking any of the following actions:

(i) from making any changes to any of the social media accounts listed in Exhibit 1 (the “JLM HP Social Media Accounts”), including but not limited to changing the name of the handles on the accounts, posting any new content thereto and/or deleting or altering any content located therein, from tagging any other posts, users or accounts, transferring any such accounts from Defendant to any other person except to JLM, or communicating with third parties through same for commercial purposes, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(ii) from utilizing or taking any action to gain control over any of the JLM HP Social Media Accounts, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(iii) from taking any action that breaches JLM’s Employment Agreement with Defendant, dated July 13, 2011, together with the amendments and extensions thereto (the “Employment Agreement”), specifically including but not limited to enjoining Defendant from using “Hayley”, “Paige”, “Hayley Page Gutman”, “Hayley Gutman”, “Hayley Page” or any derivative thereof, including misshayleypaige (collectively the “Designer’s Name”), trademarks in the Designer’s Names including but not limited to the trademarks identified on Exhibit 2 (the “Trademarks”), or any confusingly similar marks or names in trade or commerce, without the express written permission of Plaintiff’s chief executive officer, Joseph L. Murphy; and

(iv) using any of the Designer’s Names, Trademarks or any confusingly similar term to endorse, advertise or promote the products and/or services of herself or others directly or

indirectly, including on social media and/or in television or media appearances, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(v) from using, or authorizing third parties to use, the Designer's Names, Trademarks or any confusingly similar term, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

B. ordering that within 24 hours of this order and during the pendency of this action, Defendant shall deliver to JLM's attorneys the current login credentials, including the current username and password for the Main IG Account, the Pinterest account and the TikTok account with the handle @misshayleypaige, and take any action necessary to enable JLM to regain access and control of said accounts including linking the accounts to one of JLM's email addresses and/or phone numbers and/or other social media accounts as requested; and

IT IS ORDERED, that, sufficient reason having been shown therefor, pending the hearing of JLM's application for a preliminary injunction, pursuant to Rule 65, Fed. R. Civ. P.,

A. Defendant, along with her officers, agents, servants, employees, and attorneys and all other persons who are in active concert or participation with them, enjoined from taking any of the following actions:

(i) from making any changes to any of the JLM HP Social Media Accounts, including but not limited to changing the name of the handles on the accounts, posting any new content thereto and/or deleting or altering any content located therein, from tagging any other posts, users or accounts, transferring any such accounts from Defendant to any other person except to JLM, or communicating with third parties through same for commercial purposes, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(ii) from utilizing or taking any action to gain control over, any of the JLM HP Social Media Accounts, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(iii) from taking any action that breaches JLM's Employment Agreement, specifically including but not limited to enjoining Defendant from using any of the, Designer's Name, Trademarks, or any confusingly similar marks or names in trade or commerce, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(iv) using any of the Designer's Names, Trademarks or any confusingly similar term to endorse, advertise or promote the products and/or services of herself or others directly or indirectly, including on social media and/or in television or media appearances, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

(v) from using, or authorizing third parties to use, the Designer's Names, Trademarks or any confusingly similar term, without the express written permission of Plaintiff's chief executive officer, Joseph L. Murphy; and

B. ordering that within 24 hours of this order and during the pendency of this action, Defendant shall deliver to JLM's attorneys the current login credentials, including the current username and password for the Main IG Account, the Pinterest account and the TikTok account with the handle @misshayleypaige, and take any action necessary to enable JLM to regain access and control of said accounts including linking the accounts to one of JLM's email addresses and/or phone numbers and/or other social media accounts as requested; and

IT IS HEREBY ORDERED [that since Gutman has consented to a temporary injunction against her in connection with the violations of her agreement with JLM, the requirement of a bond is waived]; or [that security in the amount of \$ _____ be posted by the Plaintiff prior

to the ____ day of December, _____ at _____ of that day]; and it is further

ORDERED that personal service of a copy of this order and Plaintiff's moving papers upon the Defendant or Defendant's counsel by federal express on or before _____, _____ shall be deemed good and sufficient service thereof; and it is further

ORDERED, that answering papers be served on Adelman Matz P.C., 780 Third Avenue, 14th Floor, New York, New York 10017, with a copy by email to sarah@adelmanmatz.com, and filed with the Court on or before _____ on the ____ day of _____, 2020, and that Plaintiff's reply papers be served on Defendants' counsel, with a copy by email, and filed with the Court on or before the ____ day of _____, 2020.

DATED: New York, New York
December ____, 2020

_____,
UNITED STATES DISTRICT JUDGE